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C O N F I D E N T I A L                    WARSAW 01169

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CXWARSAW:

ACTION: POL  
INFO: ORA ODC ECON DCM DAO CONS RSO FCS MGT KRA AMB  
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DISSEMINATION: POLO

CHARGE: PROG

APPROVED: EXEC:VHASHE

DRAFTED: POL:DHLVANCLEVE

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FM AMEMBASSY WARSAW

TO RUEHC/SECSTATE WASHDC PRIORITY 1032

INFO RUEHZN/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEHKW/AMCONSUL KRAKOW PRIORITY 1146

C O N F I D E N T I A L SECTION 01 OF 03 WARSAW 001169

SIPDIS

E.O. 12958: DECL: 06/06/2021

TAGS: PGOV ECON PL PREL

SUBJECT: ARE THE KACZYNSKIS WOBBLY ON DEMOCRACY?

REF: A. WARSAW 1074 AND PREVIOUS

1B. WARSAW 1161

Classified By: Ambassador Victor Ashe for  
reasons 1.5 (b) and (d)

11. (C) Summary: One month into the political marriage of convenience which delivered a long-sought parliamentary majority, the Kaczynski brothers are moving forward with their agenda to beat back the last vestiges of Polish Communism by means that their critics charge are anti-democratic. Their fixation with vanquishing the Polish "Uklad," the shadowy network of post-Communists who have benefited from sweet, if rigged, business deals resonates with the part of the electorate that feels that they have not benefited from the spoils of the new Poland. While democracy is not imperiled in Poland, the coalition deal with troublesome fringe parties and sweeping reforms that permit open-ended investigations of businesses raise concerns that PiS's drive to create Poland's "Fourth Republic" may cut some corners on democratic checks and balances. End Summary.

PiS's Success Owed to Skillful Attack on Polish Elites

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12. (U) Poland's Law and Justice (PiS) party pulled off twin upsets in last fall's parliamentary and presidential elections, on the basis of a skillful political campaign attacking "Polska 'A,'" urban and educated Poles who have reaped enormous benefits since Communism ended in 1989. In fact PiS itself was surprised that its message resonated so well with "Polska 'B,'" older, rural, and devoutly Catholic Poles who still make up a majority of the population. The PiS agenda was packed with proposals to revamp the government -- security services, police, military -- to remove vestiges of Poland's Communist past and to create a stronger President under a "Fourth Republic."

## Need for a Parliamentary Majority...

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**¶13.** (U) PiS's efforts to move forward on its domestic agenda was stymied by its inability to muster a parliamentary majority in the Polish Sejm, which led to a short-lived quasi-coalition with the ultra-Catholic League of Polish Families (LPR) and the populist Self Defense (SO). The three parties signed a "Stabilization Pact" in early February, 2006, in which the three parties pledged to support a package of proposed laws. In exchange PiS agreed to hold off on threatened early elections which SO did not want and LPR feared would spell its political demise. No sooner than it was announced, the Stabilization Pact began to fray, and collapsed within six weeks. Ironically, it was these same parties that PiS turned to in April when it decided to form a coalition that would provide for a parliamentary majority. The formal coalition deal between the parties led to a reshuffle of the cabinet on May 5, 2006, and the elevation of SO's Andrzej Lepper and LPR's Roman Giertych to positions of prominence.

...but at What Cost?

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**¶14.** (U) The new coalition has yet to deliver on President Kaczynski's promise of a stable political situation. Many Poles, who expected a PiS-PO center right coalition, are dismayed by the elevation of Lepper and Giertych, who recently polled as the country's least trusted and most unpopular politicians, to Deputy Premierships. Giertych has been the greater lightning rod for criticism, owing to the prominence of his position as Minister of Education, his efforts to bring members of the anti-Semitic youth arm of his party to the ministry, and proposals last week to teach patriotism -- with a heavy dose of Catholicism -- in Polish schools. Neither Lepper nor Giertych, who rode to political prominence by virtue of their outsider status, are ideal, quiet junior partners. Both are already chafing at their junior partner status. Lepper and Giertych called a press conference June 5 in which they demanded an investigation relating to their charge that PiS was using Special Services police to undermine their parties. Lepper also repeated a demand that his party be permitted to nominate its own candidates to the government's "power" ministries -- Defense, Foreign Affairs, Special Services and Interior -- a demand unlikely to be met by PiS which seeks to control the excesses (and influence) of their junior partners.

## Concern Over Open-Ended, Broader Police Powers

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**¶15.** (C) PiS officials are pleased, however, that the coalition has provided a working majority to move forward on legislation to dismantle what it calls the "uklad," which roughly translates as a "shady deal," and refers to a shadowy network of former Communists who now make up part of today's Polish elite, and whom PiS claims wields power behind the scenes based on corruption. The uklad was, and remains, a favorite political target for PiS. To be sure there are problems of corruption, but there is real concern that PiS efforts to establish wide-ranging investigative committees will not clean up corruption, but be used, instead, to go after their political enemies. A case in point is the new Central Anti-Corruption Office, the centerpiece of PiS's domestic agenda. Legislation to create the office was debated and approved last week in the Polish Senate and voted by the Sejm on June 8, and signed into law by President Kaczynski on June 13. Consultations with the international business community led to dozens of proposed changes that were uniformly rejected. Critics point out that under the legislation, an anti-corruption official can be placed in private companies -- at their expense -- to run open-ended investigations into vaguely defined corrupt practices. The business community was described by one official as "apoplectic" over the lack of judicial oversight and shaky evidentiary standards outlined in the law. Many worry that

PiS could use the body to go after critics.

16. (U) But this sort of sweeping investigative scope is not unique. Since taking office, in addition to the Anti-Corruption Office, PiS has proposed the creation of a permanent standing Committee on Law and Justice, made up of members of the Sejm, Senate and judiciary, whose broad parliamentary mandate would be to investigate "abuse." Many, including Poland's Constitutional Court, have questioned the legality of what some call a "star chamber." Poland's constitution requires that investigative commissions have a clear mandate focused on specific issues. But the Commission remains one of PiS's top priorities.

17. (U) The Sejm also recently voted to set up a Sejm banking investigatory commission, also with a broad mandate to investigate abuses in privatization deals dating back to 1989. One target is Polish National Bank President, Leszek Balcerowicz, who is an outspoken critic of the Kaczynskis, and who has been a favorite target of both PiS and SO for his role in the shock economic therapy administered in the early years of the transition from communism to a free market economy. Another target is Hanna Grankiewicz-Waltz, a former President of the Polish National Bank, and the opposition Civic Platform's candidate for the upcoming mayoral race in Warsaw. The commission has yet to begin public hearings, but opposition parties have questioned the constitutionality of its open-ended mandate. In addition to the commission, PiS has said it wants to legislate changes in the banking supervisory structure that some fear would reduce the independence of the Central Bank.

18. (U) Of greatest concern to some critics have been PiS's verbal attacks against the Constitutional Court, which has struck down some pieces of legislation and the boycott by PiS leadership, including President Lech Kaczynski, of formal court ceremonies, such as the opening of the court sessions or other court events historically attended by the President, Prime Minister and Speakers of the Sejm and Senate. Despite the war of words and ceremonies, however, PiS has promised to appoint judges more to its liking when seats come open, but has proposed no legislative or constitutional changes to the court or its mandate.

#### Concern Over Politicization of Public Offices

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19. (U) Although appointing political allies to positions of prominence is nothing new to democracies, PiS's heavy handed tactics to stack organizations with their cronies have come under fire. One striking case is Ecofund (reftel B), a donor organization made up of the United States and five Western European partners that funds environmental projects in Poland. European donors charge that the Ecofund's work has been overly politicized by PiS officials at the Ministry of Finance. The United States and other members walked out of an Ecofund meeting in late May when the Ecofund chair forced the removal of three independent members of the Ecofund board. A budget impasse for six months stalled projects, and led to the threat that several member states may withdraw entirely.

#### Concern Over Controlling Public Airways

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110. (U) Since taking the reins of government, the Kaczynskis have honed a nationalist message as part of a spirited campaign against their political foes -- lawyers, bankers, judges, the Constitutional Court, and the "liberal" press have all been singled out for criticism for resisting the Kaczynskis' vision of a freer and fairer Poland. For example, in December PiS approved changes to the composition of the public Radio and Television Board (KRRiT) which reduced its membership from nine to five, and then stacked the membership so that all members were from PiS, LPR and SO. The Constitutional Court intervened to say that the President's appointment of his close political ally, Elzbieta Kruk, to the KRRiT chairmanship, was unconstitutional, that

the proposed changes had been rushed through Parliament without adherence to proper procedure, and that the government could not use KRRIT to investigate the ethics of journalists, as it had proposed. PiS leader Jaroslaw Kaczynski's reaction was to criticize the Constitutional Court's meddling, and to state that "Poland has no free media." PiS did subsequently comply with the requirements of the court, and Kruk was elected to the chairmanship on May 17 by fellow council members, as the court stipulated.

#### Concern Over Backsliding on Local Elections

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**¶11. (U)** With attention drawn to next fall's local elections, SO's Andrzej Lepper in May proposed rolling back provision of the 2004 local election law that permitted the direct election of mayors. Lepper's proposal would have returned Poland to a system whereby some mayoral races would be decided by town or city councils, and was expressly calculated to boost SO's electoral prospects against the Polish Peasant's Party (PSL), which has unusual strength at the local level. PiS, always with an eye to best its primary rival, PO, initially flirted with supporting the proposal, despite the awkward optics of retreating from a system of direct elections. Last week, however, PiS abandoned plans for rolling back the electoral system, in response to widespread criticism.

#### Concern Over Protecting Minorities

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**¶12. (U)** As reported septels, Warsaw rabbi (and American citizen) Michael Schudrich was physically assaulted following the knifing of a Jewish student in Krakow. PiS officials, including President Kaczynski and PM Marcinkiewicz responded swiftly to decry the attack. Concern lingers, however, over the lukewarm reaction by Roman Giertych, whose party's youth group, All-Poland Youth (MW) is known for its anti-Semitism. Giertych denied that LPR was anti-Semitic but added blandly that "hooliganism can happen anywhere." His failure to squarely rebuke the assault results in an ongoing perception that his party quietly tolerates such views. He similarly did not repudiate calls by MW leaders for violence against the June 10 gay rights march. Giertych called for both MW and the organizers of the gay rights parade to cancel their events, noting that "emotions run high on both sides," suggesting mutual responsibility for what has been one-sided violence. Moreover, Giertych added that it was a scandal that gays and lesbians would march openly, further burnishing his image as the protector of moral values.

#### Comment

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**¶13. (C) Comment:** We are not afraid for the future of Polish democracy, but the Kaczynskis have a narrow vision of political orthodoxy, and are now formally allied with parties that have an even narrower view. PiS efforts to create a "Fourth Republic" free of the corruption and influence of lingering communist-era figures, runs the risk of constraining civil liberties and restricting business practices. The jury is still out on the Kaczynskis' efforts to remake Poland, but even some of their harshest critics say privately that they are not worried about the state of Poland's democracy. PiS efforts to put political appointees in high level ministry positions and on government boards is a normal democratic occurrence. We will continue to watch developments and urge caution where we have a stake (such as in lobbying on the business implications of the anti-corruption bill). But like PiS's critics, we have faith in Poland's democratic institutions and the Polish electorate. The Kaczynskis are not wobbly on democracy but in their single-minded determination to build a Fourth Republic, they will be tempted to cut corners -- and this will continue raising questions in Poland and abroad. End comment.